

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WESLEY EDWARD SMITH, III,

Plaintiff,

-against-

COMMONWEALTH OF VIRGINIA;
SENATOR TIM KAINE,

Defendants.

20-CV-7521 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff filed this action *pro se*. By order dated September 15, 2020, the Court noted that on February 27, 2014, Plaintiff was barred from filing any new action *in forma pauperis* (IFP) without first obtaining from the Court leave to file. *See Smith v. Commonwealth of Virginia*, No. 1:13-CV-8111, 7 (LAP) (S.D.N.Y. Feb. 27, 2014). Because Plaintiff had not sought leave from the Court to pursue this new action IFP, the Court dismissed the complaint without prejudice for Plaintiff's failure to comply with the February 27, 2014 order.

On October 22, 2020, more than thirty days after the Court entered the judgment of dismissal on September 15, 2020, Plaintiff filed a notice of appeal, together with a motion for an extension of time to appeal. (ECF Nos. 6-7.)

Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure requires a notice of appeal in a civil case to be filed within thirty days of entry of judgment. *See Fed. R. App. P. 4(a)(1)(A)*. The district court may extend the time to file a notice of appeal, however, if the motion is filed within thirty days of expiration of the deadline for filing a notice of appeal, and if the moving party shows excusable neglect or good cause for untimely filing. *See Fed. R. App. P. 4(a)(5)(A)*.

Plaintiff appears to indicate in his motion that he had issues with the mail. Accordingly, the Court grants Plaintiff's motion for an extension of time to appeal. (ECF No. 6). The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: October 26, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge